

## House Bill 935 (RULES COMMITTEE SUBSTITUTE)

By: Representatives Burmeister of the 119<sup>th</sup>, Ehrhart of the 36<sup>th</sup>, Hembree of the 67<sup>th</sup>, Henson of the 87<sup>th</sup>, Buckner of the 130<sup>th</sup>, and others

## A BILL TO BE ENTITLED

## AN ACT

To amend Code Section 16-13-21 of the Official Code of Georgia Annotated, relating to definitions relative to regulation of controlled substances, so as to revise the definition of "practitioner"; to amend Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to nurses, so as to provide for a definition; to provide for enactment of rules and regulations affecting advanced practice registered nurses; to provide for a change in certain prohibited activities; to change a provision relating to a Drug Enforcement Administration license applicability to nurses and physician's assistants; to amend Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to the physicians, so as to provide for a physician to delegate certain medical acts to allow an advanced practice registered nurse to issue prescription drug orders and provide professional samples, order diagnostic studies, medical devices, and in certain life-threatening situations to order radiographic imaging; to provide for construction and limitations related to such delegation; to provide for definitions; to provide for the conditions of a nurse protocol agreement; to provide for execution of prescription drug orders; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 16-13-21 of the Official Code of Georgia Annotated, relating to definitions relative to regulation of controlled substances, is amended by striking paragraph (23) and inserting in its place the following:

"(23) 'Practitioner' means:

(A) A physician, dentist, pharmacist, podiatrist, veterinarian, scientific investigator, or other person licensed, registered, or otherwise authorized under the laws of this state to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state;

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(B) A pharmacy, hospital, or other institution licensed, registered, or otherwise authorized by law to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state; or

(C) An advanced practice registered nurse acting pursuant to the authority of Code Section 43-34-26.3. For purposes of this chapter and Code Section 43-34-26.3, an advanced practice registered nurse is authorized to register with the federal Drug Enforcement Administration and appropriate state authorities; or

~~(C)(D)~~ (D) A physician's assistant acting pursuant to the authority of subsection (e.1) of Code Section 43-34-103. For purposes of this chapter and subsection (e.1) of Code Section 43-34-103 and notwithstanding the provisions of subsection (g) of Code Section 43-34-26.1, a physician's assistant is authorized to register with the federal Drug Enforcement Administration and appropriate state authorities."

## SECTION 2.

Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to nurses, is amended by adding a new paragraph to Code Section 43-26-3, relating to definitions, to read as follows:

"(1.1) 'Advanced practice registered nurse' means a registered professional nurse licensed under this chapter who is recognized by the board as having met the requirements established by the board to engage in advanced nursing practice and who holds a master's degree and national board certification in his or her area of speciality, or a person who was recognized as an advanced practice registered nurse by the board on or before January 1, 2006."

## SECTION 3.

Said chapter is further amended by striking paragraph (12) of subsection (a) of Code Section 43-26-5, relating to general powers of the board, and inserting in lieu thereof the following:

"(12) Be authorized to enact rules and regulations for registered professional nurses in their performing acts under a nurse protocol as authorized in Code Section 43-34-26.1 and enact rules and regulations for advanced practice registered nurses in performing acts as authorized in Code Section 43-34-26.3;"

**SECTION 4.**

Said chapter is further amended by striking paragraph (4) of Code Section 43-26-10, relating to the prohibition of practicing as a registered professional nurse without a license, and inserting in lieu thereof the following:

"(4) Use any words, abbreviations, figures, letters, title, sign, card, or device implying that such person is a registered professional nurse or advanced practice registered nurse unless such person is duly licensed or recognized by the board so to practice under the provisions of this article;"

**SECTION 5.**

Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, is amended by striking subsection (g) of Code section 43-34-26.1, relating to delegation of authority to a nurse or physician's assistant, and inserting in lieu thereof the following:

"(g) Nothing in this Code section shall be construed to authorize or permit the issuance of a Drug Enforcement Administration license to a nurse ~~or physician's assistant~~ who is not an advanced practice registered nurse."

**SECTION 6.**

Said article is further amended by adding a new Code Section 43-34-26.3 to read as follows:

"43-34-26.3.

(a) As used in this Code section, the term:

(1) 'Advanced practice registered nurse' shall have the same meaning as provided in paragraph (1.1) of Code Section 43-26-3.

(2) 'Birthing center' means a facility or building where human births occur on a regular or ongoing basis and which is classified by the Department of Human Resources as a birthing center.

(3) 'Controlled substance' means any controlled substance as defined in Code Section 16-13-21 but shall not include any Schedule I controlled substance included in Code Section 16-13-25 or any Schedule II controlled substance included in Code Section 16-13-26.

(4) 'Dangerous drug' means any dangerous drug as defined in Code Section 16-13-71.

(5) 'Delegating physician' means a physician who has entered into a nurse protocol agreement pursuant to this Code section.

(6) 'Diagnostic study' means a laboratory test, X-ray, ultrasound, or procedure used to identify a characteristic or distinguishing feature of a particular disease or condition.

1 (7) 'Drug' means any dangerous drug or controlled substance.

2 (8) 'Free health clinic' shall have the same meaning as provided in Code Section  
3 51-1-29.4.

4 (9) 'Life threatening' means an emergency situation in which a patient's life or physical  
5 well-being will be harmed if certain testing is not performed immediately.

6 (10) 'Nurse protocol agreement' means a written document mutually agreed upon and  
7 signed by an advanced practice registered nurse and a physician, by which document the  
8 physician delegates to that advanced practice registered nurse the authority to perform  
9 certain medical acts pursuant to this Code section, and which acts may include, without  
10 being limited to, the ordering of drugs, medical devices, medical treatments, diagnostic  
11 studies, or in life-threatening situations radiographic imaging tests. Such agreements  
12 shall conform to the provisions set forth in subsection (c) of this Code section.

13 (11) 'Order' means to select pursuant to a nurse protocol agreement which drug, medical  
14 device, medical treatment, diagnostic study, or in life-threatening situations radiographic  
15 imaging test is appropriate for a patient and to communicate the same in writing, orally,  
16 via facsimile, or electronically.

17 (12) 'Physician' means a person licensed to practice medicine under this chapter and:

18 (A) Whose principal place of practice is within this state; or

19 (B) Whose principal place of practice is outside this state but is within 50 miles from  
20 the location where the nurse protocol agreement is being utilized within this state.

21 (13) 'Prescription drug order' means a written or oral order of an advanced practice  
22 registered nurse for a drug or medical device for a specific patient. Such term includes  
23 an electronic visual image prescription drug order and an electronic data prescription drug  
24 order.

25 (14) 'Professional sample' means a complimentary dose of a drug, medication,  
26 medication voucher, or medical device provided by the manufacturer for use in patient  
27 care.

28 (15) 'Radiographic imaging test' means a computed tomography, magnetic resonance  
29 imaging, positron emission tomography, or nuclear medicine.

30 (b) In addition to and without limiting the authority granted pursuant to Code Section  
31 43-34-26.1, a physician may delegate to an advanced practice registered nurse in  
32 accordance with a nurse protocol agreement the authority to order drugs, medical devices,  
33 medical treatments, diagnostic studies or in life-threatening situations radiographic imaging  
34 tests.

35 (c) A nurse protocol agreement between a physician and an advanced practice registered  
36 nurse pursuant to this Code section shall:

1 (1) Be between an advanced practice registered nurse who is in a comparable specialty  
2 area or field as that of the delegating physician;

3 (2) Contain a provision for immediate consultation between the advanced practice  
4 registered nurse and the delegating physician; if the delegating physician is not available,  
5 the delegating physician for purposes of consultation may designate another physician  
6 who is aware of and concurs with the nurse protocol agreement;

7 (3) Identify the parameters under which delegated acts may be performed by the  
8 advanced practice registered nurse, including without limitation the number of refills  
9 which may be ordered, the kinds of diagnostic studies which may be ordered, the extent  
10 to which radiographic image tests may be ordered, and the circumstances under which a  
11 prescription drug order may be executed. In the event the delegating physician authorizes  
12 the advanced practice registered nurse to order an X-ray, ultrasound, or radiographic  
13 imaging test, the nurse protocol agreement shall contain provisions whereby such X-ray,  
14 ultrasound, or radiographic imaging test shall be read and interpreted by a physician who  
15 is trained in the reading and interpretation of such tests; a report of such X-ray,  
16 ultrasound, or radiographic imaging test may be reviewed by the advanced practice  
17 registered nurse; and a copy of such report shall be forwarded to the delegating physician,  
18 except that such provision for an ultrasound shall not be required for an advanced practice  
19 registered nurse acting within his or her scope of practice as authorized by Code Sections  
20 43-26-3 and 43-26-5.

21 (4) Require documentation either in writing or by electronic means or other medium by  
22 the advanced practice registered nurse of those acts performed by the advanced practice  
23 registered nurse which are specific to the medical acts authorized by the delegating  
24 physician;

25 (5) Include a schedule for periodic review by the delegating physician of patient records.  
26 Such patient records review may be achieved with a sampling of such records as  
27 determined by the delegating physician;

28 (6) Provide for patient review, evaluation, or follow-up by the delegating physician, with  
29 the frequency of such review, evaluation, or follow-up based on the nature, extent, and  
30 scope of the delegated act or acts as determined by the delegating physician;

31 (7) Be reviewed, revised, or updated annually by the delegating physician and the  
32 advanced practice registered nurse; and

33 (8) Be available for review upon written request to the advanced practice registered nurse  
34 by the Georgia Board of Nursing or to the physician by the board.

35 (d) A written prescription drug order issued pursuant to this Code section shall be signed  
36 by the advanced practice registered nurse and shall be on a form which shall include,

1 without limitation, the names of the advanced practice registered nurse and delegating  
2 physician who are parties to the nurse protocol agreement, the patient's name and address,  
3 the drug or device ordered, directions with regard to the taking and dosage of the drug or  
4 use of the device, and the number of refills. A prescription drug order which is transmitted  
5 either electronically or via facsimile shall conform to the requirements set out in paragraphs  
6 (1) and (2) of subsection (c) of Code Section 26-4-80, respectively.

7 (e) An advanced practice registered nurse may be authorized under a nurse protocol  
8 agreement to request, receive, and sign for professional samples and may distribute  
9 professional samples to patients. The office or facility at which the advanced practice  
10 registered nurse is working shall maintain a list of the professional samples approved by  
11 the delegating physician for request, receipt, and distribution by the advanced practice  
12 registered nurse as well as a complete list of the specific number and dosage of each  
13 professional sample and medication voucher received and dispensed. In addition to the  
14 requirements of this Code section, all professional samples shall be maintained as required  
15 by applicable state and federal laws and regulations.

16 (f) A managed care system, health plan, hospital, insurance company, or other similar  
17 entity shall not require a physician or advanced practice registered nurse to be a party to a  
18 nurse protocol agreement as a condition for participation in or reimbursement from such  
19 entity.

20 (g) A delegating physician may not enter into a nurse protocol agreement pursuant to this  
21 Code section with more than four advanced practice registered nurses at any one time as  
22 calculated on a full-time equivalency basis, except this limitation shall not apply to an  
23 advanced practice registered nurse that is practicing:

- 24 (1) In a hospital licensed under Title 31;
- 25 (2) In any college or university as defined in Code Section 20-8-1;
- 26 (3) In the Department of Human Resources;
- 27 (4) In any county board of health;
- 28 (5) In any free health clinic;
- 29 (6) In a birthing center;
- 30 (7) In any organization:

31 (A) Which is exempt from federal taxes pursuant to Section 501(c)(3) of the Internal  
32 Revenue Code, as defined in Code Section 48-1-2; or

33 (B) Which has been established under the authority of or is receiving funds pursuant  
34 to 42 U.S.C. Section 254b or 254c of the United States Public Health Service Act; or

35 (8) In any local board of education which has a school nurse program.

(h) Nothing in this Code section shall be construed to create a presumption of liability, either civil or criminal, on the part of a pharmacist duly licensed under Chapter 4 of Title 26 who, in good faith, fills a prescription drug order of an advanced practice registered nurse issued pursuant to a nurse protocol agreement.

(i) Nothing in this Code section shall be construed to apply to the practice of a certified registered nurse anesthetist.

(j) Nothing in this Code section shall be construed to require an advanced practice registered nurse to be a party to a nurse protocol agreement in order to practice as a registered professional nurse or an advanced practice registered nurse as otherwise permitted by Article 1 of Chapter 26 of this title.

(k) Nothing in this Code section shall be construed to authorize an advanced practice registered nurse to issue a prescription drug order for a Schedule I or II controlled substance or authorize refills of any drug for more than 12 months from the date of the original order except in the case of oral contraceptives, hormone replacement therapy, or prenatal vitamins which may be refilled for a period of 24 months.

(l) Nothing in this Code section shall be construed to authorize or permit any practitioner to authorize an advanced practice registered nurse to perform an abortion or administer abortion-inducing prescriptions other than as authorized in Code Section 16-12-141."

#### **SECTION 7.**

All laws and parts of laws in conflict with this Act are repealed.